

(Part VIII.—Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Secs. 443-446.)

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEANS
AND AMERICANS.

Magistrates
who may
inquire into
and try
charges
against Euro-
pean British
subjects.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

Sessions
Judge to be
an European
British
subject.
Assistant
Sessions
Judge to
have held
office for
three years
and to be
specially
empowered.

444. No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government.

Cognizance
of offence
committed
by European
British sub-
ject.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person :

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

Sentences
which may
be passed by

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District

Part VIII.—*Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Secs. 447-449.*)

District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both. provincial Magistrates.

447. (1) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court. When commitment is to be to Court of Session and when to High Court.

(2) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences. Trial of offences of which one is and the others are not, punishable with death or transportation for life.

449. (1) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both. Sentences which may be passed by Court of Session.

(2) If, at any time after the commitment and before signing judgment, the presiding Judge thinks that Procedure when Sessions Judge

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finds his powers inadequate.

that the offence which appears to be proved, cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

Jury or assessors before High Court or Court of Session.

450. (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

Right of European British subject to claim jury before District Magistrate.

451. (1) In trials of European British subjects before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 450.

(2) If a claim is made under sub-section (1) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence,

(Part VIII.—*Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Sec. 451.*)

defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by those sub-sections, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

(9) If an accused person claims to be tried by jury under this section and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 450 cannot be constituted for the trial before himself, or

Transfer to another Court in certain cases.

cannot

(Part VIII.—Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Secs. 452-453.)

cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under this section, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

(10) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under this section.

Trial of
European
British
subject and
Native
jointly
accused.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately :

When Native
may claim
separate trial.

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

Procedure on
claim of
person to be
dealt with as
European
British
subject.

453. (1) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial ; and such Magistrate shall inquire into the truth of such statement, and allow the person making

(Part VIII.—*Special Proceedings. Chapter XXXIII.—Criminal Proceedings against Europeans and Americans.—Sec. 454.*)

making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(2) When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further enquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

(3) When the Court before which any person is tried, decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

454. (1) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case.

Failure to
plead status
a waiver.

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

455. Where

(Part VIII.—*Special Proceedings.* Chapter XXXIII.—*Criminal Proceedings against Europeans and Americans.*—Secs. 455-459.)

Trial under this Chapter of person not an European British subject.

455. Where a person who is not an European British subject is dealt with as such under this Chapter and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

Right of European British subject unlawfully detained to apply for order to be brought before High Court.

456. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the High Court which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

Procedure on such application.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

Territories throughout which High Court may issue such orders.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct.

Application of acts conferring jurisdiction on Magistrates or Courts of Session.

459. (1) Unless there is something repugnant in the context, all enactments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in this section shall be deemed to authorise

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authorise any Court to exceed the limits prescribed by this Chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate or any Judge presiding in a Court of Session, not being a Justice of the Peace.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims, be Europeans or Americans. Jury for trial of Europeans or Americans.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American and in compliance with a claim made under section 460 is tried by a jury or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately. Jury when European or American charged jointly with one of another race.

462. (1) When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 450, or section 460, or before the Court of a District Magistrate or Sessions Judge proceeding under section 451, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial. Summoning and empanelling jurors under section 450, 451 or 460.

(2) The Court shall also, at the same time, in like manner, cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

(3) From

(Part VIII.—*Special Proceedings.* Chapter XXXIII.—*Criminal Proceedings against Europeans and Americans.*—Sec. 463. Chapter XXXIV.—*Lunatics.*—Sec. 464.)

(3) From the whole number of persons returned the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained :

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

Conduct of
criminal pro-
ceedings
against
European
British
subjects, etc.

463. Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

CHAPTER XXXIV.

LUNATICS.

Procedure in
case of
accused being
lunatic.

464. (1) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

(2) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of

(Part VIII.—*Special Proceedings.* Chapter XXXIV.—*Lunatics.*—Secs. 465-467.)

of making his defence, he shall postpone further proceedings in the case.

465. (1) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

Procedure in case of person committed before Court of Session or High Court being lunatic.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

466. (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Release of lunatic pending investigation or trial.

(2) If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, remanding the accused to custody pending orders, and the Local Government may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

Custody of lunatic.

467. (1) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

Resumption of inquiry or trial.

(2) When

(Part VIII.—Special Proceedings. Chapter XXXIV.—Lunatics.—Secs: 468-471.)

(2) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on
accused
appearing
before
Magistrate
or Court.

468. (1) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

When
accused ap-
pears to
have been
insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment
of acquittal
on ground
of lunacy.

470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person
acquitted on

471. (1) Whenever such judgment states that the
accused

(Part *VIII.—Special Proceedings. Chapter XXXIV.—Lunatics.—Sec. 472.*)

accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

such ground to be kept in safe custody.

(2) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

(3) The Governor General in Council may, by general or special order, direct that any person whom the Local Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined, to any lunatic asylum, jail or other place of safe custody in British India.

Power of Governor General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

(4) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or this section, to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.

Power of Local Government to relieve Inspector General of certain functions.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Lunatic prisoners to be visited by Inspector General.

(Part VIII.—*Special Proceedings.* Chapter XXXIV.—*Lunatics.*—Secs. 473-475.)

Procedure where lunatic prisoner is reported capable of making his defence.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.

474. (1) If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

(2) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

Delivery of lunatic to care of relative.

475. (1) Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and, on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

(2) Whenever

(Part VIII.—*Special Proceedings. Chapter XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice.—Secs. 476-477.*)

(2) Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

(3) The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

476. (1) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195 and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

Procedure in cases mentioned in section 195.

(2) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorised under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

477. (1) Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred

Power of Court of Session as to

(Part VIII.—*Special Proceedings. Chapter XXXV.*
—*Proceedings in case of certain Offences affecting the Administration of Justice.*—Secs. 478-479.)

such offences committed before itself. referred to in section 195 and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge.

(2) Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

478. (1) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be.

(2) For the purposes of an inquiry under this section the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

Procedure of Civil or Revenue Court in such cases.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence.

480. (1) When

(Part VIII.—*Special Proceedings. Chapter XXV.*
—Proceedings in case of certain Offences affecting the Administration of Justice.—Secs. 480-482.)

480. (1) When any such offence as is described in section 175, section 178, section 179, section 180, or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

(2) Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

481. (1) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

Record in such cases.

(2) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

482. (1) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction

Procedure where Court considers that case should not be dealt with under section 480.

(Part VIII.—*Special Proceedings. Chapter XXXV.*
 —*Proceedings in case of certain Offences affecting the Administration of Justice.—Secs. 483-485.*)

tion to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

483. When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877, shall be deemed III of 1877. to be a Civil Court within the meaning of sections 480 and 482.

Discharge of offender on submission or apology.

484. When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Imprisonment or committal of person refusing to answer or produce document.

485. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and

(Part VIII.—*Special Proceedings. Chapter XXXV.*
—Proceedings in case of certain Offences affecting the Administration of Justice.—Secs. 486-487.)

and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

486. (1) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable. Appeals from convictions in contempt-cases.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge, or, in the presidency-towns, to the High Court.

487. (1) Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate, other than a Judge of a High Court and the Recorder of Rangoon, shall try any person for any offence referred Certain Judges and Magistrates not to try offences referred to in

(Part VIII.—*Special Proceedings.* Chapter XXXVI.—*Of the Maintenance of Wives and Children.*—Sec. 488.)

section 195
when
committed
before them-
selves.

referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

(2) Nothing in section 476 or section 482, shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

Order for
maintenance
of wives and
children.

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, a Presidency Magistrate, a Subdivisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

Enforcement
of order.

(3) If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment

onment

(Part VIII.—*Special Proceedings. Chapter XXXVI.*
—*Of the Maintenance of Wives and Children.*—
Sec. 488.)

onment for a term which may extend to one month or until payment if sooner made :

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent:

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(6) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases :

Provided that if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any order so made may be set aside for good cause shewn, on application made within three months from the date thereof.

(7) The accused may tender himself as a witness, and in such case shall be examined as such.

(8) The Court in dealing with applications under this

(Part VIII.—*Special Proceedings. Chapter XXXVI. —Of the Maintenance of Wives and Children.—Secs. 489-490. Chapter XXXVII.—Directions of the Nature of a Habeas Corpus.—Sec. 491.*)

this section shall have power to make such order as to costs as may be just.

(9) The accused may be proceeded against in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit : Provided that if he increases the allowance the monthly rate of fifty rupees in the whole be not exceeded.

Enforcement of order of maintenance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid ; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

DIRECTIONS OF THE NATURE OF A *HABEAS CORPUS*.

Power to issue directions of the nature of a *habeas corpus*.

491. (1) Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

(a) that a person within the limits of its ordinary original civil jurisdiction be brought up before

(Part VIII.—Special Proceedings. Chapter XXXVII.—Directions of the Nature of a Habeas Corpus.—Sec. 491.)

before the Court to be dealt with according to law ;

- (b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty ;
- (c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court ;
- (d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of any commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively ;
- (e) that a prisoner within such limits be removed from one custody to another for the purpose of trial ; and
- (f) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(2) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818, Madras Regulation II of 1819, or Bombay Regulation XXV of 1827, or the State Prisoners Act, 1850, or the State Prisoners Act, 1858.

III of 1818.
XXXIV of
1850.
III of 1858.

PART IX.